

SEC. 327. LIMITATIONS ON CONVERSION OF WORK PERFORMED BY DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES TO CONTRACTOR PERFORMANCE

(a) REQUIRED COST-SAVINGS THRESHOLD FOR CONVERSION- If a public-private competition conducted under the Office of Management and Budget Circular A-76 dated May 29, 2003 (68 Fed. Reg. 32134), regarding an activity or function performed by civilian employees of the Department of Defense is required to include a formal comparison of the cost of civilian employee performance of the activity or function with the cost of contractor performance, the Secretary of Defense shall maintain the continued performance of the activity or function by civilian employees unless the competitive sourcing official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of the following:

- (1) \$10,000,000.
- (2) 10 percent of the most efficient organization's personnel-related costs for performance of the activity or function by civilian employees.

(b) Prohibition on Modification of Functions to Permit Streamlined A-76 Study- The Secretary of Defense shall ensure that no organization, function, or activity of the Department of Defense is consolidated, restructured, reengineered, or otherwise modified in any way for the purpose of exempting any public-private competition conducted under the Office of Management and Budget Circular A-76 dated May 29, 2003 (68 Fed. Reg. 32134), regarding a commercial or industrial type function of the Department of Defense from the requirement to formally compare, in accordance with such Circular, the cost of civilian employee performance of the function

with the cost of contractor performance.

(c) EXCEPTION- Subsection (a) does not apply in the case of a public-private competition conducted as part of the best-value source selection pilot program authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 10 U.S.C. 2461 note).